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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,379	08/15/2001	Christian Kropf	H 3763 PCT/U	8884

423 7590 12/23/2002

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[REDACTED]  
EXAMINER

ROSE, SHEP K

ART UNIT	PAPER NUMBER
	1614

DATE MAILED: 12/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	09/868379	Applicant(s)	K RUPF et al
Examiner	SHEP ROSE	Group Art Unit	1614

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- Responsive to communication(s) filed on \_\_\_\_\_
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

8 2/4

- Claim(s) \_\_\_\_\_ is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) \_\_\_\_\_ is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.
- Claim(s) \_\_\_\_\_

### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892
- Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Other \_\_\_\_\_

### Office Action Summary

Application/Control Number: 09/868,379

Art Unit: 1617

This is a 371 national stage entry of PCT/EP 99/09683 having a December 9, 1999 International Filing Date, (based on an earlier German priority document filed December 18, 1998).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 8 to 14 are rejected under 35 U.S.C. 102(a) as being anticipated by Rudin et al WO/PCT 99/20237, published 29 April 1999 who clearly describe such ultra finely divided hydroxyapatite particles, within and encompassed by applicants' parameters of length, width, and height (see page 2, bottom ten lines, page 3, top 2 lines) in the form of stable suspensions, with up to 5% surfactants (same as herein) (see pages 4, 6, 7, 8, of stable suspensions, with up to 5% surfactants (same as herein) (see pages 4, 6, 7, 8, with several examples with sodium lauryl sulfate surfactant) useful in the form of toothpastes, tooth creams and gels, and mouth rinse (page 9). Rudin et al antedate applicants' December 9, 1999 International Filing Date.

Should applicants desire to obtain the benefit of their German priority date of 18 December 1998, and thereby antedate the 29 April 1999 publication date of Rudin et al., a certified English translation of the untranslated German priority document No. 19858662.0 must be filed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shep Rose whose telephone number is (703) 308-4609.

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The examiner can normally be reached on Monday, Tuesday and Thursday from 7:30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

*Shep Rose*

SHEP K. ROSE  
PRIMARY EXAMINER

Rose/LR  
December 17, 2002